

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

TARGET TRAINING INTERNATIONAL,  
LTD.,

Plaintiff,

V.

EXTENDED DISC NORTH AMERICA,  
INC.,

Defendant.

Civil Action No. 4:10-cv-03350

Judge Kenneth M. Hoyt

**TARGET TRAINING INTERNATIONAL, LTD.'S MOTION TO STRIKE  
DEFENDANTS MOTION FOR SUMMARY JUDGMENT OF NON-INFRINGEMENT**

Plaintiff Target Training International, Ltd. (“TTI”) moves the Court to strike Defendant Extended DISC North America, Inc.’s (“EDNA”) Motion for Summary Judgment of Non-Infringement on the Extended Disc On-Line System (Docket No. 178). EDNA filed its first Motion for Summary Judgment of Non-Infringement on May 31, 2011 (Docket No. 70) and amended it on June 21, 2011 (Docket No. 93.) The Court has already denied EDNA’s motion, stating “genuine issues of material fact remain disputed.” (Docket No. 108 at 9.) EDNA has now filed this second Motion for Summary Judgment of Non-Infringement which simply restates its arguments from the first motion. (Docket No. 178.) Because genuine issues of material fact clearly still exist<sup>1</sup> with respect to infringement, and because the Court has already denied EDNA’s motion once, neither TTI nor the Court should be required to waste time and resources rehashing the same arguments and reevaluating the decided law in this case. Accordingly, TTI

<sup>1</sup> For example, there are several factual inconsistencies between the testimony of EDNA's principal, Mr. Kauppinen, and other proffered summary judgment evidence. Those factual inconsistencies have not gone away, and EDNA's new motion does not suggest so.

respectfully requests the Court strike EDNA's second Motion for Summary Judgment of Non-Infringement. Because TTI's opposition to EDNA's motion is due in one week, TTI requests the Court strike EDNA's motion on an expedited basis. A proposed order is attached.

### **CERTIFICATE OF CONFERENCE**

R. Scott Johnson, counsel for TTI, attempted to contact both Stephen Schlather and Joshua Long, counsel for EDNA, on February 24, 2012 to request EDNA withdraw its Motion for Summary Judgment of Non-Infringement for the reasons expressed herein. Counsel for TTI was told counsel for EDNA were in trial, and as a result the parties were not able to resolve their differences.

Respectfully submitted,

/s/ R. Scott Johnson

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**ATTORNEYS FOR PLAINTIFF TARGET  
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**CERTIFICATE OF SERVICE**

I hereby certify that on February 24, 2012, I filed the foregoing with the Clerk of Court using the ECF system which will send notification of such filing to the following:

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/s/ R. Scott Johnson